IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 439 OF 2007**

IN

CRIMINAL APPEAL NO. 1 OF 2007

Savkar Dhondiba Gunjal ... Applicant
(Orig. Accused No.6)

Versus

State of Maharashtra ... Respondent

Mr. P.M.Parshurami, Advocate, i/b. Mr. Milind Sawant, Advocate for the applicant.
Mr. D.P. Adsule, APP, for the State.

**CORAM: J.H.BHATIA,J.**

**DATE : 28th June, 2007.**

**P.C.**

1. Heard Mr. Parshurami, learned Counsel for the applicant and Mr. Adsule, APP, for the State.

2. The applicant, who was accused No.6 in Special Case No.40 of 1997, wherein along with other accused,

the applicant was also convicted for the offence punishable under Sections 467, 468, 471, 477-A, 409 I.P.C. as well as under Section 13(1)(c) and Section 13(2) of the Prevention of Corruption Act and was sentenced to undergo the varying terms of imprisonment and fine. By order dated 2nd February, 2007 in Criminal Application No.1 of 2007, the applicant was granted bail by this Court pending the Appeal.

3. By this Application, the applicant seeks suspension of the order of conviction and sentence. According to him, he is a Chartered Accountant and he was engaged for auditing the accounts of the Railway Goods Clearing & Forwarding Establishment Labour Board for the periods 1990-91 and 1991-92, while he had actually audited the accounts from 17th June, 1992 till 28th July, 1992. Taking into consideration this aspect, he was granted bail by this Court. It appears that he was not in the employment of the Government and he was engaged on a contract basis for the purpose of auditing accounts. Liberty was given to the learned APP to point out whether the applicant was in the Government employment, but today, he could not produce any document or material to show that he was in the Government employment. However, he has shown the order dated 21.5.1991 which clearly indicates that he was engaged to audit accounts on contract basis.

4. It is settled position of law that it is against the public interest to suspend conviction of a Government employee who is convicted for the charges of corruption because if the conviction is suspended pending appeal, he may be reinstated to the same position where he can commit similar offences of corruption. However, as the applicant was not in the Government employment and by suspension of the sentence, he is not likely to be employed or posted at any public office if the sentence is suspended.

5. Therefore, the Application is allowed. The sentence awarded to him in Special Case No.40 of 1997 is hereby suspended during the pendency of the Appeal before this Court.

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**(J.H.BHATIA,J.)**